

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL LEWIS,

Plaintiff,

-against-

DR. ROBERT BENTIVEGNA, et al.,

Defendants.

7:25-CV-3632 (CS)

ORDER OF SERVICE

CATHY SEIBEL, United States District Judge:

Plaintiff Michael Lewis, who is currently incarcerated in the Green Haven Correctional Facility (“Green Haven”), a New York State Department of Corrections and Community Supervision (“DOCCS”) prison, brings this action *pro se* asserting claims of violations of his federal constitutional rights, seeking damages and other relief. He sues: (1) Dr. Robert Bentivegna, Green Haven’s former Facility Health Services Director; (2) Bobbi Tuohy, Green Haven’s former Superintendent; (3) Nurse Felix, a Green Haven nurse; (4) Nurse Alexandra, a Green Haven nurse; (5) Nurse Debbyo, a Green Haven nurse; and (6) “Nurse ‘H,’” an unidentified Green Haven nurse. The Court construes Plaintiff’s complaint as asserting claims under 42 U.S.C. § 1983.

By order dated June 12, 2025, the court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.¹ The Court directs service on the identified defendants and directs the Attorney General of the State of New York to provide Plaintiff and the Court with the identity and the service address of “Nurse ‘H.’”

¹ Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. See 28 U.S.C. § 1915(b)(1).

DISCUSSION

A. Service on the identified defendants

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on assistance from the Court and the United States Marshals Service (“USMS”) to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the USMS to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on the identified defendants (Bentivegna, Tuohy, Felix, Alexandra, and Debbyo) through the USMS, the Clerk of Court is instructed to fill out a USMS Process Receipt and Return form (“USM-285 form”) for each of those defendants. The Clerk of Court is further instructed to issue a summons for each of those defendants and deliver to the USMS all the paperwork necessary for the USMS to effect service of a summons and the complaint on each of those defendants.

If a summons and the complaint are not served on each of those defendants within 90 days after the date that the summonses for those defendants are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss this action if he fails to do so.

²Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve the identified defendants until 90 days after the date that any summonses for those defendants issue.

B. Unidentified defendant

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the Court in ascertaining an unidentified defendant's identity and that defendant's service address. 121 F.3d 72, 76 (2d Cir. 1997). In his complaint, Plaintiff supplies sufficient information to permit DOCCS to ascertain the identity and service address of the unidentified defendant, "Nurse 'H,'" who appears to be a Green Haven nurse who treated Plaintiff by inserting a catheter into him on at least one of the dates mentioned in the complaint. The Attorney General of the State of New York, who is the agent of and attorney for DOCCS, must provide this information to Plaintiff and the Court within 60 days of the date of this order.

Within 30 days of receiving this information, Plaintiff must file an amended complaint naming the newly identified individual as a defendant and providing his/her service address. The amended complaint will replace, not supplement, Plaintiff's original complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen it and, if necessary, issue an order directing service on the newly identified defendant.

CONCLUSION

The Court directs the Clerk of Court to mail an information package to Plaintiff.

The Court also directs the Clerk of Court to: (1) issue summonses for the identified defendants (Bentivegna, Tuohy, Felix, Alexandra, and Debbyo); (2) complete USM-285 forms for those defendants; and (3) deliver all documents necessary to effect service of a summons and the complaint on each of those defendants to the USMS.

The Court further directs the Clerk of Court to mail a copy of this order and a copy of the complaint (ECF 1) to the Attorney General of the State of New York, at 28 Liberty Street, New York, New York 10005.

An amended complaint form is attached to this order

SO ORDERED.

Dated: July 29, 2025
White Plains, New York



CATHY SEIBEL
United States District Judge

SERVICE ADDRESSES FOR DEFENDANTS

1. Dr. Robert Bentivegna
Former Facility Health Services Director
Green Haven Correctional Facility
594 Route 216
Stormville, New York 12582-0010
2. Bobbi Tuohy
Former Superintendent
Green Haven Correctional Facility
594 Route 216
Stormville, New York 12582-0010
3. Nurse Felix
Green Haven Correctional Facility
594 Route 216
Stormville, New York 12582-0010
4. Nurse Alexandra
Green Haven Correctional Facility
594 Route 216
Stormville, New York 12582-0010
5. Nurse Debbyo
Green Haven Correctional Facility
594 Route 216
Stormville, New York 12582-0010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

CV

(Include case number if one has been assigned)

-against-

**AMENDED
COMPLAINT**
(Prisoner)

Do you want a jury trial?

Yes No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a *"Bivens"* action (against federal defendants).

Violation of my federal constitutional rights

Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name

Middle Initial

Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

County, City

State

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

Pretrial detainee

Civilly committed detainee

Immigration detainee

Convicted and sentenced prisoner

Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<hr/> Dated	<hr/> Plaintiff's Signature	
<hr/> First Name	<hr/> Middle Initial	<hr/> Last Name
<hr/> Prison Address		
<hr/> County, City	<hr/> State	<hr/> Zip Code
 Date on which I am delivering this complaint to prison authorities for mailing: _____		